

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Joseph Donald Thornblad,

Case No. 22-cv-2880 (WMW/JFD)

Petitioner,

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE**

v.

State of Minnesota,

Respondent.

This matter is before the Court on the Report and Recommendation (“R&R”) issued by United States Magistrate Judge John F. Docherty on April 5, 2023. (Dkt. 20.) Petitioner Joseph Donald Thornblad objects to the R&R. (Dkt. 23.) For the reasons stated below, the Court overrules Thornblad’s objection, adopts the R&R, denies the petition, dismisses the action with prejudice and denies the remaining motions as moot. (Dkts. 2, 3 and 27.)

BACKGROUND

Thornblad challenges a Minnesota civil commitment order from 1996 that concluded Thornblad was “mentally ill and dangerous” under Minnesota law. When Thornblad appealed his commitment, the Minnesota Court of Appeals affirmed the trial court. Thornblad has been committed since then. Thornblad filed a petition with this Court in November 2022 along with an application to proceed *in forma pauperis* (“IFP application”) and a motion for his release. The magistrate judge issued an order to show cause why Thornblad’s petition should not be dismissed for failure to comply with the applicable statute of limitations. In response to the Order to Show Cause, Thornblad filed

over 100 pages of material, which the magistrate judge reviewed. The magistrate judge issued the R&R recommending the dismissal of the case because the statute of limitations had expired. Thornblad filed a timely objection to the R&R, to which the State of Minnesota did not respond.

ANALYSIS

The Court reviews *de novo* the portions of an R&R objected to by a party and “may accept, reject, or modify, in whole or in part, the findings or recommendation made by the magistrate judge.” 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3). A party’s objections to an R&R must “specify the portions of the magistrate judge’s report and recommendation to which objections are made and provide a basis for those objections.” *Mayer v. Walvatne*, No. 07-cv-1958, 2008 WL 4527774 at *2 (D. Minn. Sept. 28, 2008). An objection that restates arguments made to and considered by the magistrate judge is reviewed for clear error. *Montgomery v. Compass Airlines, LLC*, 98 F.Supp.3d 1012, 1017 (D. Minn. 2015). In the absence of specific objections, this Court reviews an R&R for clear error. *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Because Thornblad is self-represented, the Court liberally interprets his objections. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Horsey v. Asher*, 741 F.2d 209, 211 n.3 (8th Cir. 1984).

Even when the Court liberally construes his objection, Thornblad’s objection merely restates arguments in support of his petition. Thornblad’s half-page objection does not specify any portion of the R&R or any analysis in the R&R. This objection lacks the required specificity to conduct a *de novo* review of the R&R. *See Mayer*, No. 07-cv-1958, 2008 WL 4527774 at *2. Therefore, the Court will review the R&R for clear error. *See*

Grinder, 73 F.3d at 795. Having carefully performed this review, the Court finds no clear error and adopts the R&R.

In addition to properly concluding that the statute of limitations bars Thornblad's petition, the magistrate judge also properly concluded that no reasonable jurist would debate the outcome of dismissal. *See Anderson v. Janssen*, No. 17-CV-4480 (WMW/FLN), 2019 WL 8407452 (D. Minn. Mar. 11, 2019) (standard for certificate of appealability requires a showing that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong"). Therefore, the Court will not issue a certificate of appealability.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Petitioner Joseph Donald Thornblad's objection to the April 5, 2023 R&R, (Dkt. 23), is **OVERRULED**;
2. The April 5, 2023 R&R, (Dkt. 20), is **ADOPTED**;
3. Thornblad's Petition for a Writ of Habeas Corpus, (Dkt. 1), is **DENIED**;
4. This action is **DISMISSED with prejudice**;
5. Thornblad's Application to Proceed in District Court without Prepaying Fees or Costs, (Dkt. 2), Motion for Release, (Dkt. 3), and Motion to Appoint Counsel, (Dkt. 27), are **DENIED** as moot; and
6. No certificate of appealability shall issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 28, 2023

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge